

system that forms part of the monitor of Figure 4. Column 4, lines 52-54. The monitor of Figure 4, in turn, is described as “utilizing the principles illustrated in Figure 2.” Column 4, lines 44-45. The use by the monitor in Figure 4 of the principles illustrated in Figure 2 undermines the Examiner’s reliance on Figure 2. In particular, if the monitor of Figure 4 (the angle measurement unit of which is illustrated in more detail in Figure 5C) operates according to the principles set forth in Figure 2, and if this monitor does not, as the Examiner concedes, include the angle measurement device recited in the claims, then Figure 2 cannot be reasonably seen as supplying the particular angle sensing feature recited in the claims.

Moreover, in applying Figure 2 of Finarov to the claims, the Examiner ignores that what the claim recites is the sensing of an angle, not the derivation of it. Commenting on Figure 2, the Examiner states that “Finarov teaches in Fig.2, the incident angle is derived from an angle made with the mirror [72] and the beam that is parallel to the scanning axis.” Office Action at page 3. (Emphasis added, insertion added). However true that statement may be, it is not relevant to the claims because the claims recite an “angle measurement device sensing an angle of the reflected beam relative to a tangential plane...” (Emphasis added). In Finarov, there is no sensing of angle β and the derivation of incident angle θ does not meet the angle sensing recited in claim 9. Moreover, by focusing on the angle in Figure 2 formed by the beam incident on mirror 72 and the beam reflected from mirror 72 (angle β), the Examiner has relied on the wrong angle. In particular, the “reflected beam” in claim 9 forming, with the tangential plane, the angle sensed by the angle measurement device is the beam reflected from the substrate, not from a mirror positioned before the beam reaches the substrate. The reflected beam relied on by the Examiner in his discussion of Figure 2 is thus not relevant to the recited reflected beam in claim 9 because the reflected beam relied on by the Examiner has not yet impinged on the substrate and therefore cannot be considered a beam reflected from the substrate, as is the case in the claim. For at least these reasons, withdrawal of the rejection of claim 9 is respectfully requested.

As for claims 10 and 14-16, Applicant submits that these claims are patentable for at least the same reasons given in support of the patentability of claim 9.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Finarov in view of United States Patent No. 4,999,014 to Gold et al. ("Gold"). Since Gold does not overcome the deficiencies noted above with respect to Finarov, withdrawal of this rejection is respectfully requested.

Claims 12 and 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Finarov in view of United States Patent No. 5,838,432 to Tokuhashi et al. ("Tokuhashi"). Since Tokuhashi does not overcome the deficiencies noted above with respect to Finarov, Applicant respectfully requests withdrawal of this rejection.

Applicant asserts that the present invention is new, non-obvious, and useful. Consideration and allowance of the claims are requested.

Respectfully submitted,

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